

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

SHIRLEY MORSE,

Plaintiff,

v.

Civil Action No: 2:18-1298
The Honorable _____
Removed from the Circuit Court of
Kanawha County, West Virginia

ALDI, INC. (Maryland); ALDI, INC. (Ohio); and
ALDI, INC. (Pennsylvania),

Defendant.

NOTICE OF REMOVAL OF CIVIL ACTION

Now Comes Defendant ALDI, INC. (Ohio) incorrectly identified as ALDI, INC. (Maryland) and ALDI, INC. (Pennsylvania), by and through its attorney Scott H. Kaminski and the law firm of Kaminski Law, PLLC, and pursuant to 28 U.S.C. § 1446, and respectfully state as the basis for this Notice of Removal:

1. This defendant is the defendant in Civil Action No. 18-C-1069 filed on August 21, 2018 in the Circuit Court of Kanawha County, West Virginia captioned as Shirley Morse, Plaintiff v. ALDI, INC. (Maryland); ALDI, INC. (Ohio); and ALDI, INC. (Pennsylvania), Defendant.
2. This defendant has been served with the Plaintiffs' summons and complaint through the West Virginia Secretary of State on August 23, 2018.
3. This defendant has attached true and complete copies of all the process and pleadings served on them in this action, and have labeled them as Exhibit A. No further proceedings have been had.

4. A true copy of the docket sheet from the Circuit Court of Kanawha County is attached as Exhibit B.

5. This Court has original jurisdiction over this action based on diversity of citizenship within the meaning of 28 U.S.C. § 1332.

6. This is a civil action in which the matter in controversy exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of interest and costs. The damages asserted by plaintiff are for unknown medical expenses for severe and permanent injuries as well as lost wages, both past and future. Plaintiff also claims punitive damages. Plaintiff, in addition to seeking compensatory damages for her medical treatment, also seeks recovery of non-economic damages including pain and suffering, both past and future; annoyance, aggravation and mental anguish both past and future. Accordingly, the true amount in controversy exceeds the jurisdictional minimum. *Sayre v. Potts*, 32 F.Supp.2d 881 (S.D.W. Va. 1999)

7. Plaintiff Shirley Morse is a citizen of Kanawha County, West Virginia.

8. ALDI, INC. (Ohio) is an Ohio corporation with its principle place of business at 1200 North Kirk Road, Batavia, Illinois 60510. ALDI, INC. (Maryland) is a Maryland corporation with its principle place of business at 1200 North Kirk Road, Batavia, Illinois 60510. ALDI, INC. (Pennsylvania) is a Pennsylvania corporation with its principal place of business at 1200 North Kirk Road, Batavia, Illinois 60510.

9. A filing fee of \$400.00 payable to the Clerk of the United States District Court is made electronically along with this Notice of Removal.

10. A copy of the Notice to State Court of Filing of Notice of Removal, which was filed in the Circuit Court of Kanawha County, West Virginia is attached hereto as Exhibit C.

WHEREFORE, ALDI, INC. (Ohio); ALDI, INC. (Maryland); and ALDI, INC. (Pennsylvania) file this notice to remove the action now pending in the Circuit Court of Kanawha County, West Virginia, Civil Action No. 18-C-1069 from that court to the United States District Court for the Southern District of West Virginia, Charleston Division.

ALDI, INC. (Maryland); ALDI, INC. (Ohio)
and ALDI, INC. (Pennsylvania),

By Counsel

s/Scott H. Kaminski

Scott H. Kaminski (WVSB #6338)

Kaminski Law, PLLC

P.O. Box 3548

Charleston, WV 25335-3548

(304) 344-0444

(304) 344-4411 fax

skaminski@kamlawwv.com

(Counsel for Defendant)



**Service of Process
Transmittal**

08/28/2018

CT Log Number 533960737

TO: ALDI Legal Team
ALDI INC.
1200 N Kirk Rd
Batavia, IL 60510-1477

RE: Process Served in West Virginia

FOR: ALDI INC. (PENNSYLVANIA) (Domestic State: PA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Shirley Morse, Pltff. vs. ALDI Inc. (Maryland), et al., Dfts. // To: ALDI Inc. (Pennsylvania)

DOCUMENT(S) SERVED: Letter, Summons, Complaint

COURT/AGENCY: Kanawha County Circuit Court, WV
Case # 18C1069

NATURE OF ACTION: Personal Injury - Slip/Trip and Fall - August 26, 2016

ON WHOM PROCESS WAS SERVED: C T Corporation System, Charleston, WV

DATE AND HOUR OF SERVICE: By Certified Mail on 08/28/2018 postmarked on 08/24/2018

JURISDICTION SERVED : West Virginia

APPEARANCE OR ANSWER DUE: Within 30 days after service, exclusive of the day of service

ATTORNEY(S) / SENDER(S): Kevin P. Davis
P.O. Box 6067
Charleston, WV 25362
(304) 380-9080

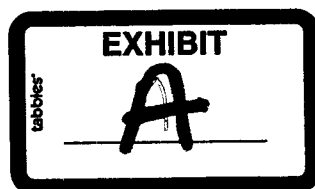
ACTION ITEMS: CT has retained the current log, Retain Date: 08/29/2018, Expected Purge Date: 09/03/2018

Image SOP

Email Notification, ALDI Legal Team legal@aldi.us

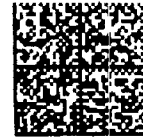
SIGNED: C T Corporation System
ADDRESS: 1627 Quarrier St
Charleston, WV 25311-2124
TELEPHONE: 302-658-7581/7582/7583

Page 1 of 1 / SM



Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

CERTIFIED MAIL



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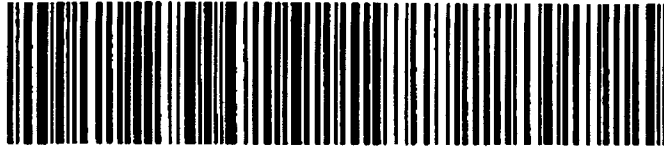


Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8683
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www.wvsos.com

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ALDI INC. (PENNSYLVANIA)
C. T. Corporation System
1627 QUARRIER ST.
CHARLESTON, WV 25311-2124

Control Number: 225074

Defendant: ALDI INC. (PENNSYLVANIA)
1627 QUARRIER ST.
CHARLESTON, WV 25311-2124 US

Agent: C. T. Corporation System

County: Kanawha

Civil Action: 18-C-1069

Certified Number: 92148901125134100002382541

Service Date: 8/23/2018

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your corporation.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your corporation as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

A handwritten signature in cursive script that reads "Mac Warner".

Mac Warner
Secretary of State

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

SHIRLEY MORSE

Plaintiff,

v.

Civil Action No. 18-C-1069

Judge King

ALDI Inc. (Maryland); ALDI Inc. (Ohio); and
ALDI Inc. (Pennsylvania),

Defendant(s)

Summons

ALDI Inc. (Pennsylvania)

CT Corporation System

1627 Quarrier Street

Charleston, WV 25311

ACCEPTED FOR
OFFICE OF PROCESS
JUN 23 P 12:39
OFFICE OF THE CLERK
COURT OF THE STATE
OF WEST VIRGINIA

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon Kevin P. Davis, Attorney at Law, plaintiff's attorney, whose address is P.O. Box 6067, Charleston, WV 25362, an answer, including any related counter-claim the Defendant may have, to the complaint filed against you in the above styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred for asserting in another action any claim you may have which must be asserted by counterclaim in the above styled civil action.

Dated: 8/21/18

Cathy S. Gatson, Clerk
CLERK OF COURT B. J. D.

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Shirley Morse,

Plaintiff,

v.

Civil Action No: 18-01009

Judge: King

ALDI Inc. (Maryland); ALDI INC. (Ohio); and

ALDI Inc. (Pennsylvania),

Defendant.

COMPLAINT

1. The Plaintiff, Shirley Morse, was and is a citizen and resident of Kanawha County, West Virginia.
2. Aldi Inc. (Maryland), is a foreign corporation authorized to do business in West Virginia with a principal office address of 1200 North Kirk Road, Batavia, Illinois, 60510 and Notice of Process address of CT Corporation System, 1627 Quarrier Street, Charleston, West Virginia 253112124.
3. Aldi Inc. (Ohio), is a foreign corporation authorized to do business in West Virginia with a principal office address of 1200 North Kirk Road, Building C, Fourth Floor, Batavia, Illinois, 60510 and Notice of Process address of CT Corporation System, 1627 Quarrier Street, Charleston, West Virginia 253112124.
4. Aldi Inc. (Pennsylvania), is a foreign corporation authorized to do business in West Virginia with a principal office address of 1200 North Kirk Road, Attn: Tax Department, Batavia, Illinois, 60510 and Notice of Process address of CT Corporation System, 1627 Quarrier Street, Charleston, West Virginia 253112124.

5. The Plaintiff was an invitee on the premises of Aldi at 434 12th Street, Dunbar, West Virginia 25064 on August 26, 2016.
6. The Defendant(s) owed a duty of care to the invitees that visited the premises of the business and specifically keeping the floor safe from anything that could cause a customer to fall and get injured.
7. The Plaintiff at all times mentioned in this Complaint acted with reasonable care.
8. On August 26, 2016 while at the Aldi in Dunbar, Plaintiff tripped over an obstruction laying unseen by the shopper in the floor.
9. Plaintiff tripped on the obstruction, while shopping and was caused to fall, causing serious and permanent injury to her person.
10. The Defendant(s) knew or should have known that the obstruction was a tripping hazard.
11. The Defendant(s) owed a duty of care to the invitees that visit their premises in a manner that does not allow hazardous conditions to exist and this obstruction was blatantly a hazard.
12. The Defendant(s) was responsible through the actions and non-actions of its employees, agents, and store manager and had a duty to make sure the premises were safe for the public, especially someone like the plaintiff.
13. At all times relevant herein, Defendant(s), acted gross reckless and/or wanton in maintaining the floor in a safe condition for its customers.
14. As a proximate result of Defendant's(s) negligence, the Plaintiff, Shirley Morse, sustained severe and permanent injuries to her person including, but not limited to, her right arm, right hand, right hip, right knee, head, neck, and was otherwise injured.

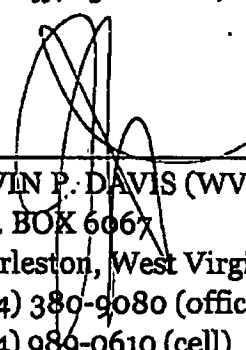
15. As a direct and proximate result of the negligence and carelessness of the Defendant, the Plaintiff was injured and has undergone medical treatment; has incurred medical expenses and will continue to incur medical expenses in the future; has endured pain and suffering, both in the past and in the future; has incurred lost wages and will continue to do so in the future; and the Plaintiff has in the past suffered annoyance, aggravation, and mental anguish and will continue to do so in the future.

WHEREFORE, the plaintiff demands judgment against the Defendant(s), in the amount that will fully and fairly compensate Plaintiff for: (1) special damages for the Defendant(s) negligence; (2) general damages for the Defendant(s) negligence; (3) prejudgment interest on the plaintiff's special damages; (4) punitive damages; (5) costs of this action; and (6) such other and further relief as deemed just and proper by the Court.

PLAINTIFF DEMANDS A JURY TRIAL.

Respectfully submitted,

SHIRLEY MORSE
Plaintiff, by counsel,

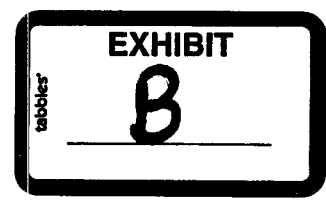


KEVIN P. DAVIS (WVSB # 8687)
P.O. BOX 6067
Charleston, West Virginia 25362
(304) 380-9080 (office)
(304) 989-0610 (cell)

PAGE 1

CASE 18-C-1069 KANAWHA
SHIRLEY MORSE vs. ALDI INC., (MARYLAND)

LINE	DATE	ACTION
1	08/21/18	# CASE INFO SHEET; COMPLAINT; ISSUED SUM & 6 CPYS; F FER; RCPT
2		# 564303; \$245.00
3	08/28/18	# LET FR SS DTD 8/23/18; SUM W/RET (8/23/18 SS) AS TO ALDI
4		# INC (MARYLAND)
5	08/28/18	# LET FR SS DTD 8/23/18; SUM W/RET (8/23/18 SS) AS TO ALDI
6		# INC (OHIO)
7	08/28/18	# LET FR SS DTD 8/23/18; SUM W/RET (8/23/18 SS) AS TO ALDI
8		# INC (PENNSYLVANIA)



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

SHIRLEY MORSE,

Plaintiff,

v.

Civil Action No.: 18-C-1069
Honorable Charles E. King

ALDI, INC. (Maryland); ALDI, INC. (Ohio); and
ALDI, INC. (Pennsylvania),

Defendant.

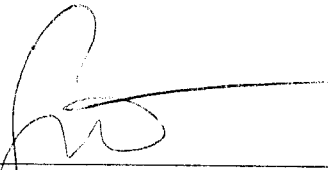
NOTICE OF FILING NOTICE OF REMOVAL

PLEASE TAKE NOTICE that the above-styled Civil Action which bears Civil Action No. 18-C-1069 on the docket in the Circuit Court of Kanawha County, West Virginia is being removed pursuant to 28 U.S.C. §1332 and §1446 to the United States District Court for the Southern District of West Virginia. A copy of the Notice of Removal is hereto attached as Exhibit A. This Notice serves to cause the full removal of this action and precludes the Circuit Court of Kanawha County from proceeding further in this action unless and until this action is remanded.

Respectfully submitted this 14th day of September, 2018.

ALDI, INC. (Maryland); ALDI, INC. (Ohio)
and ALDI, INC. (Pennsylvania),

By Counsel



Scott H. Kaminski (WVSB #6338)
Kaminski Law, PLLC
P.O. Box 3548
Charleston, WV 25335-3548
(304) 344-0444
(304) 344-4411 fax



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

SHIRLEY MORSE,

Plaintiff,

v.

Civil Action No.: 18-C-1069
Honorable Charles E. King

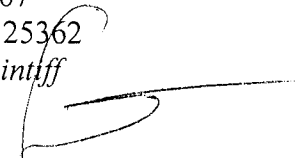
ALDI, INC. (Maryland); ALDI, INC. (Ohio); and
ALDI, INC. (Pennsylvania),

Defendant.

CERTIFICATE OF SERVICE

I, Scott H. Kaminski, counsel for Defendant Aldi, Inc. (Maryland); Aldi, Inc. (Ohio) and Aldi, Inc. (Pennsylvania), do hereby certify that on this 14th day of September 2018, I have placed a true and exact copy of the foregoing "*Notice of Filing Notice of Removal*" by US Mail, postage prepaid, to the following counsel of record on this 15th day of November 2017:

Kevin P. Davis
P.O. Box 6067
Charleston, WV 25362
Counsel to Plaintiff



Scott H. Kaminski (WVSB #6338)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

SHIRLEY MORSE,

Plaintiff,

v.

Civil Action No: 2:18-1298
The Honorable _____
Removed from the Circuit Court of
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ALDI, INC. (Maryland); ALDI, INC. (Ohio); and
ALDI, INC. (Pennsylvania),

Defendant.

CERTIFICATE OF SERVICE

I, Scott H. Kaminski, counsel for Defendant Aldi, Inc. (Maryland); Aldi, Inc. (Ohio) and Aldi, Inc. (Pennsylvania), do hereby certify that on this 14th day of September 2018, I have placed a true and exact copy of the foregoing ***“Notice of Removal of Civil Action”*** by CM/ECF which will automatically cause an electronic copy to be delivered to the following counsel of record:

Kevin P. Davis
P.O. Box 6067
Charleston, WV 25362
Counsel to Plaintiff

s/Scott H. Kaminski
Scott H. Kaminski (WVSB #6338)